

EXHIBIT 133

1 CONFIDENTIAL - LEONG PENG TAN
2 UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK
3 Case No. 18-CV-01047 (PGG)

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4 EIG ENERGY FUND XIV, L.P.,
5 EIG ENERGY FUND XIV-A, L.P.,
6 EIG ENERGY FUND XIV-B, L.P.,
7 EIG ENERGY FUND XIV (CAYMAN), L.P.,
8 EIG ENERGY FUND XV, L.P.,
9 EIG ENERGY FUND XV-A, L.P.,
10 EIG ENERGY FUND XV-B, L.P., and
11 EIG ENERGY FUND XV (CAYMAN), L.P.,
12 Plaintiffs,

13 - against -

14 KEPPEL OFFSHORE & MARINE LTD.,
15 Defendant.

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16 * * * CONFIDENTIAL * * *
17 30(b)(6) DEPOSITION
18 VIA ZOOM VIDEOCONFERENCING
19 OF
20 KEPPEL OFFSHORE & MARINE LTD.
21 BY AND THROUGH
22 LEONG PENG TAN
23 Thursday, July 15, 2021
24 Reported By:
 LINDA J. GREENSTEIN
25 JOB NO. 4662403

1 CONFIDENTIAL - LEONG PENG TAN

2 schooling; is that right?

3 A. That's right.

4 Q. And you've been with Keppel
5 Offshore & Marine since then without any
6 breaks; is that right?

7 A. That's right.

8 Q. And you've been employed by
9 Keppel Offshore & Marine the entire time?

10 A. That's right.

11 Q. Did you join Keppel Offshore &
12 Marine in 2002?

13 A. That's the year I joined, yes.

14 Q. Okay. Can you please walk me
15 through the various positions you've held
16 at Keppel Offshore & Marine starting with
17 2002?

18 A. You're saying the various
19 position I held, right?

20 Q. Yes, the various positions you
21 held at Keppel Offshore & Marine since
22 2002.

23 A. I joined them as a graduate
24 engineer and after that I become a project
25 engineer, taking care of project, and

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2 engineering, I took care -- I'm responsible
3 for the whole department of engineering,
4 and of course as it is just now, the
5 department of engineering, and we took care
6 of all the technical aspects of the various
7 products, of vessel that we actually build.

8 Q. Okay. I'm just going to ask if
9 you could slow down a little bit with your
10 answers. I think I and the court reporter
11 would appreciate that.

12 A. Okay.

13 Q. Mr. Tan, did you hold any
14 positions with a Keppel entity named
15 Fernvale at any point?

16 A. Yes.

17 Q. At what point and what position
18 did you hold?

19 A. I hold the position of -- as a
20 deputy project director in the year 2012.

21 Q. You took that position on in
22 2012?

23 A. Yes.

24 Q. And what were your duties and
25 responsibilities as the deputy project

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2 Brazil."

3 Do you see that, sir?

4 A. Yes.

5 Q. And the way that this bribe
6 scheme worked was that Keppel Offshore &
7 Marine secured the contract by paying a
8 percentage of the price of the contract to
9 Petrobras Sete; right, sir?

10 A. That what, paragraph 19 say?
11 "Knowingly and willfully
12 conspired to pay, and paid, bribes in
13 connection with 13" -- people -- "projects
14 in Brazil."

15 Q. And Keppel paid bribes equal to
16 a percentage of the value of the contracts
17 that it secured with Sete and Petrobras;
18 right, sir?

19 A. Say that again?

20 Q. Let me read it.

21 And Keppel paid bribes equal to
22 a percentage of the value of the contracts
23 that it secured with Sete and Petrobras;
24 right, sir?

25 A. Yes, that's right.

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2 Q. Is that your answer?

3 A. Yes.

4 Q. And what are the names of the
5 consulting companies that KOM entered an
6 agreement with to facilitate and conceal
7 the payment of bribes relating to Sete?

8 A. Eagle Do Brazil and Deep Sea
9 Oil.

10 Q. And how did the agreements that
11 KOM executed with Eagle Do Brazil and Deep
12 Sea Oil conceal their purpose, which was to
13 facilitate the payment of bribes?

14 A. For all these project, we
15 basically pay a percentage of the project
16 price to Mr. Zwi.

17 Q. Is that your complete answer?

18 A. Yes.

19 Q. And when you refer to a
20 percentage of the project that was paid to
21 Mr. Zwi, Z-W-I, are you referring to the
22 commission fee that Keppel would pay Mr.
23 Skornicki for his work relating to Sete?

24 A. That's right.

25 Q. And how is it that the

1 CONFIDENTIAL - LEONG PENG TAN

2 commission fee that was paid to Mr. Zwi
3 concealed the purpose of the agreement
4 which was to facilitate the payment of
5 bribes?

6 A. I wouldn't know that.

7 Q. You don't know the answer to
8 that question?

9 A. I see what the document say,
10 that it is under the guise of the
11 consulting agreement.

12 Q. Is it Keppel's understanding
13 that the commission fee concealed the fact
14 that a portion of that fee was intended to
15 be a bribe payment?

16 A. As for what the document say, to
17 facilitate that payment.

18 Q. Mr. Tan, I'm asking you whether
19 the commission fee that we just discussed
20 was intended to conceal the fact that a
21 portion of that fee was intended to be a
22 bribe payment.

23 A. Yes.

24 Q. Can you turn to page 36 of the
25 PDF, which is A-14 of the document, and the

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2 Q. Do you have any information as
3 to when Keppel negotiated the amount of
4 bribes it would pay on contracts relating
5 to Sete or the Rigs Project?

6 A. I don't know. No information.

7 Q. Do you have any information as
8 to when Keppel agreed to pay bribes on
9 projects relating to Sete or the Rigs
10 Project?

11 A. We agreed to pay the consultant
12 2 percent of commission.

13 Q. I understand that.

14 My question is, do you have any
15 information as to the timing of when Keppel
16 agreed to pay bribes on projects relating
17 to the Rigs Project or Sete Brazil?

18 A. I believe it would be third
19 quarter of 2011.

20 Q. That's your testimony as to when
21 Keppel agreed to pay bribes on projects
22 relating to the Rigs Project as well, sir?

23 A. No. When we agree on the
24 commission for the consultant.

25 Q. That's not a complete sentence.

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2 I'm sorry, I'm having a hard
3 time understanding what you said.

4 You said, "When we agree on the
5 commission for the consultant."

6 Can you explain your answer?

7 A. The time -- third quarter 2011
8 is the time we agreed to -- on the
9 percentage of commission to be paid for the
10 consultant.

11 Q. Okay. I appreciate that, but my
12 question is, do you know anything about the
13 timing of when Keppel agreed to pay bribes,
14 whether or not it had set the amount of
15 bribes that it would pay relating to the
16 Rigs Project for Sete Brazil?

17 A. No.

18 Q. If you look at paragraph 72,
19 there's a reference here to "several
20 telephone calls." Do you see that in the
21 third line?

22 A. Yes.

23 Q. Do you have any information
24 about the telephone calls referenced in
25 paragraph 72 of the Statement of Facts?

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2 in the CEO position of KOM?

3 A. That's right.

4 Q. And as the CEO of KOM in 2014,
5 did Mr. YY Chow hold any chairman positions
6 at Keppel FELS or BrasFELS?

7 A. Yes, he's a director.

8 Q. Director of what?

9 A. The board.

10 Q. Director of what?

11 A. The board of directors. He's
12 part of the board of directors.

13 Q. He was part of the board of
14 directors of Keppel FELS; is that right?

15 A. That's right. He's one of the
16 director.

17 Q. Was he on the board of directors
18 of BrasFELS, if it had a board?

19 A. Yes.

20 Q. Thank you.

21 And Mr. Tan, do you have any
22 doubt that KOM Executive 1 referenced in
23 the DPA is CH Tong and KOM Executive 3 is
24 YY Chow based on everything you did to
25 prepare for this deposition and looking at

1 CONFIDENTIAL - LEONG PENG TAN

2 KOM Executive 5 is.

3 A. Which part of that DPA again?

4 Sorry.

5 Q. Paragraph 75.

6 A. Yes.

7 Q. Who is KOM Executive 5?

8 A. As per the e-mail, Tommy Sam.

9 Q. And what is his position at this
10 time?

11 A. Tommy Sam -- he's the CFO of
12 BrasFELS.

13 Q. Was he the CFO of BrasFELS
14 between 2010 and 2012? I understand it
15 went longer, but does that cover that time
16 period?

17 A. Sorry -- you're asking me 2010
18 to 2012, right?

19 Q. Yes.

20 A. Yes, I think so.

21 Q. And how long did he remain the
22 CFO of Brasfels?

23 A. I think it's up to about around
24 2015.

25 Q. And did he hold any positions at

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2 BY MS. PAK:

3 Q. Mr. Tan, can you please answer
4 the question?

5 A. Sorry, can you just repeat the
6 question again?

7 Q. What do you understand the Rigs
8 Project to mean with respect to Petrobras's
9 need for 28 offshore drilling rig units?

10 A. Petrobras has announced that
11 they needed drilling rigs for the offshore
12 exploration.

13 Q. And do you recall around when
14 that announcement was made?

15 A. 2009.

16 Q. Okay. And when did Keppel first
17 learn about the Rigs Project?

18 A. I think it's 2009.

19 Q. How did Keppel learn about the
20 Rigs Project?

21 A. The announcement for the rig.

22 Q. Did Keppel receive information
23 about the Rigs Project, outside of the
24 announcement, directly from employees of
25 Petrobras?

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2 A. No.

3 Q. Your testimony is no?

4 A. I don't know, I don't know.

5 Q. Okay. I understand.

6 In or around 2010, did Keppel
7 submit any bids directly to Petrobras
8 entity to build rigs in connection with the
9 Rigs Project?

10 A. Yes.

11 Q. What do you know about the bid
12 that Keppel submitted directly to Petrobras
13 entity in connection with the Rigs Project?

14 A. We have submitted to build two
15 semi-submersible and one -- and seven
16 drillship. We submitted -- sorry, let me
17 rephrase that.

18 Petrobras has turned out three
19 bids, of which two of the bids is for them
20 to build the units, and for these two bids
21 we have bidden directly to Petrobras. And
22 one of the bid is for two semi-submersible
23 and the other bid is for seven drillship.

24 Q. And when did Keppel first submit
25 its bid in connection with the Rigs

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2 Project?

3 A. You're referring to the
4 Petrobras bid?

5 Q. Yes.

6 A. 2010.

7 Q. Do you know around when in 2010?

8 A. Oh, I think it's in -- I -- I
9 can only remember I think it's somewhere,
10 sometime in Q2.

11 Q. In Q2. Okay.

12 And which Keppel entity
13 submitted that bid, do you know?

14 A. The BrasFELS.

15 Q. And do you know, I think you
16 testified to this, but just to be clear,
17 how many rigs did Keppel, through BrasFELS,
18 bid for in 2010 in connection with the Rigs
19 Project?

20 A. I think it to be very clear that
21 rig here, there's actually three bids, so
22 can you be very specific when you ask for
23 the bids.

24 Q. Okay. So with respect to the
25 two rigs, how many rigs did Keppel bid for

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2 in 2010?

3 A. Two.

4 Q. And with respect to the lots of
5 seven rigs, how many bids did Keppel -- how
6 many rigs did Keppel bid for in --

7 A. Seven, seven.

8 Q. Okay.

9 MS. PAK: I'm going to mark an
10 exhibit.

11 BY MS. PAK:

12 Q. And were you involved, Mr. Tan,
13 at all, with the two bids that you just
14 referred to that were submitted by BrasFELS
15 in 2010?

16 A. Yes, I'm involved as mechanical
17 guy.

18 Q. So earlier I had asked you if
19 you had been involved in any projects
20 relating to Petrobras before 2011 and you
21 had said you did not, I believe.

22 But this is a bid that you're
23 saying that you were involved with;
24 correct?

25 A. Correct. Project and bids is

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2 A. We also lost. We didn't get it.

3 Q. And were the results of the bids
4 made public?

5 A. I think so, yes. I think so,
6 yes?

7 Q. And in this time period,
8 June 2010, Keppel Offshore & Marine was
9 paying bribes in connection with other
10 projects it secured with Petrobras;
11 correct?

12 A. As per what the DPA say.

13 Q. Did Keppel Offshore & Marine
14 know in June 2010, when it submitted bids
15 to Petrobras Netherlands for the
16 construction of seven drilling units that
17 it would pay bribes or kickbacks on any
18 contracts that it was awarded?

19 A. Can you repeat the last part of
20 it?

21 Q. Did Keppel Offshore & Marine
22 know in June 2010, when it submitted bids
23 to Petrobras Netherlands for the
24 construction of seven drilling units, that
25 it would pay bribes or kickbacks on any

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2 contracts that it was awarded?

3 A. I guess as per the DPA, as this
4 bid is also going to Zwi, I guess so.

5 Q. Okay. Sorry, I was just waiting
6 for the transcript.

7 MS. PAK: All right. I'm
8 marking another exhibit.

9 I'm sorry, I'm looking at his
10 answer that he provided. I think he
11 made a reference to "Zwi," which is
12 Z-W-I.

13 BY MS. PAK:

14 Q. Is that correct, Mr. Tan?

15 A. That's right.

16 Q. Thank you.

17 MS. PAK: I'm introducing
18 another exhibit.

19 (Plaintiffs' Exhibit 83
20 for identification, one-page document,
21 e-mail thread, production numbers
22 KEPPEL00279564, shown to the witness.)

23 BY MS. PAK:

24 Q. Mr. Tan, let me know when you
25 see Plaintiffs' Exhibit 83.

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2 Q. Okay. And just so we have a
3 clear record, you said "we have a
4 contingency period" for what?

5 A. For project execution risk.
6 For --

7 Q. For project execution risk.
8 Is that what you said?

9 A. That's right.

10 Q. Okay. Thank you.

11 And do you know whether Mr. Choo
12 was ever found to have been involved in any
13 bribery scheme relating to Sete Brazil?

14 A. Again, I think with his
15 departure around that time, I guess so.

16 Q. Okay. And if you look at the
17 top e-mail, Mr. Choo again is writing to
18 executives of KOM or KOM subsidiaries, and
19 it's dated October 5, 2010, again, and he
20 writes:

21 "It is a pity, as our yard in
22 Angara is executing well, very well."

23 Do you see that, sir?

24 A. Yes.

25 Q. And the yard in Angara refers to

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2 A. How important...all I can say is
3 that Keppel is well-known, is global -- is
4 globally known, as far as the best rig
5 builder, probably.

6 And for this particular bid, we
7 see that as we are technically competent to
8 actually beat and build for this 28 units,
9 so we should bid, we should bid for it.
10 Why not.

11 Q. I'm sorry, I didn't mean to cut
12 you off. Was that the end of your answer?

13 A. Yes.

14 Q. Do you know if there are a
15 certain number of seats reserved for
16 executives of KOM -- of Keppel's board on
17 KOM's board of directors, generally?

18 A. I know that normally the CEO of
19 Keppel Corp. and the CFO of Keppel Corp.'s
20 seat on the board of KOM.

21 Q. And does the CEO of KOM
22 typically sit on the board of KOM's
23 subsidiaries?

24 A. Yes. The -- yes.

25 Q. Okay. And after Mr. CH Tong's

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2 tenure as the CEO of KOM, did he continue
3 to hold any board position on any Keppel
4 entity?

5 A. Not that I can remember.

6 Q. All right. And when did Keppel
7 first learn about Petrobras's plan to
8 create an entity called Sete?

9 A. I'm sorry, can you repeat that
10 again?

11 Q. Yes. When did Keppel first
12 learn about Petrobras's plan to create an
13 entity called Sete?

14 A. I think Keppel came to know
15 about Sete because the chief put us to
16 submit a proposal to build six
17 semi-submersible -- seven.

18 Q. Can you repeat your answer,
19 please?

20 A. Sorry. We came to know Sete
21 Brazil when we have been with Petrobras
22 Sete Brazil to submit a proposal for
23 semi-submersible.

24 Q. Is it your testimony that KOM
25 did not know that Sete existed until it

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2 going to contract for the remaining 21 rigs
3 as well as seven rigs with EAS, Keppel
4 understood that Sete would require some
5 form of equity financing; right, sir?

6 A. No, I -- Sete will require
7 financing.

8 Q. Okay. So then the question is,
9 when did Keppel first learn that Sete would
10 require equity financing?

11 A. Equity financing...

12 I think it's time when I think
13 we believe we have spoken about potentially
14 having a joint venture for one of the
15 units.

16 Q. Okay. We'll get to that later,
17 the joint venture.

18 MS. PAK: So I've introduced a
19 document that was previously marked as
20 Plaintiffs' Exhibit 6.

21 It's an e-mail chain Bates
22 stamped KEPPEL00547339 to 340, 3-4-0.

23 (Previously marked
24 Plaintiffs' Exhibit 6 for
25 identification shown to the witness.)

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2 Do you see that, sir?

3 A. Yes.

4 Q. So at least as of the date of
5 this e-mail, January 9, 2011, Keppel
6 Offshore & Marine was informed that Sete
7 would be funded, at least in part, by
8 private entities; right, sir?

9 A. Based on this e-mail, yes.

10 Q. Okay. And if you look at
11 paragraph 1(e), it says:

12 "Petrobras, through Sete
13 Enterprise, would like to see the following
14 award combinations," and next to "Keppel,"
15 which is in subparagraph 2, it says:

16 "Four units of semis at between
17 USD 750m to 720m/unit."

18 Do you see that, sir?

19 A. Yes.

20 Q. And why is Petrobras -- I'm
21 sorry, strike that.

22 How did Petrobras know what
23 award combinations it wanted through Sete
24 with respect to how many units each
25 shipyard would build in January 2011?

1 CONFIDENTIAL - LEONG PENG TAN
2 e-mail and say this must be the case.

3 Q. Right. I understand.

4 But this was a topic you
5 prepared for; right, Mr. Tan?

6 A. Yes.

7 Q. All right.

8 If you look at the subject line,
9 what is "DSS38E"?

10 A. That's our design for the
11 semi-submersible.

12 Q. And this is the same design for
13 the same semi-submersible that Keppel
14 included in its proposal to Petrobras
15 Netherlands in 2010; right, sir?

16 A. It's the same design, yes.

17 Q. And if you look at the e-mail
18 above that --

19 A. I'd like to correct that.

20 It's the same design that we
21 have proposed for the two DRU.

22 Q. Okay. And if you look at the
23 e-mail above that, you write back on
24 Tuesday, July 5, 2011, and you say:

25 "Tey, as spoken, pls relook into

1 CONFIDENTIAL - LEONG PENG TAN

2 the following."

3 And you list:

4 "1. For BrasFELS, please use
5 the KPI that we have previously based on in
6 last year submission."

7 2, you say: "Increase the
8 commission to 2 percent."

9 Do you see that, sir?

10 A. Yes.

11 Q. And this commission that you're
12 referring to in this e-mail is a reference
13 to the commission that Keppel was going to
14 pay to Mr. Zwi Skornicki; right, sir?

15 A. Yes.

16 Q. And earlier you stated that the
17 commission fee that was set for Mr. Zwi
18 Skornicki was 2 percent; right, sir?

19 A. No. I say we make some
20 assumption of that.

21 Q. You testified earlier --

22 A. Just earlier, yes.

23 Q. Yes, okay.

24 A. (Inaudible) it was for Zwi for
25 the project is 2 percent, right.

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2 A. I can't remember who are all of
3 them because it's already 11 years, but I
4 will assume that is the bidding team.

5 Q. So it's your testimony that in
6 July 5, 2011, the increase in the
7 commission for 2 percent was an assumed
8 commission fee?

9 A. It's the assumed commission fee,
10 yes.

11 Q. And would it be typical that a
12 team would assume a commission fee on a
13 contract that's worth hundreds of millions
14 of dollars each?

15 A. Uh-huh.

16 Q. Without authorization from any
17 executive at KOM?

18 A. First of all, this is a cost
19 estimate, okay, so it's a cost estimate so
20 it is assumption. So we assume 2 percent
21 in the cost estimate and that's the reason
22 why you will see that the e-mail is from --
23 to YY stating that this is what we have
24 costed for.

25 Q. So Mr. YY Chow is in this

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2 e-mail. Was he part of the team that
3 assumed that the increase in the commission
4 fee would be to 2 percent?

5 A. I think so because he's all part
6 of bidding team.

7 Q. So he was involved in the
8 decision-making in increasing the
9 commission fee to 2 percent at this time
10 period; right, sir?

11 A. I really can't recall, to be
12 very frank.

13 Q. You don't know whether or not
14 Mr. YY Chow was involved in the decision to
15 increase the commission to 2 percent in or
16 around this time?

17 A. For us, there's no decision, as
18 I tell you. This just an estimate. It's
19 just like how I estimate -- I estimate this
20 to be like this, I estimate that to be like
21 this. So we estimate the commission to be
22 2 percent.

23 Q. But you didn't just estimate --

24 A. There's no decision to be made.
25 It's just that if you estimate the

1 CONFIDENTIAL - LEONG PENG TAN

2 Q. What is a "speculation semi"?

3 A. Sorry, can you repeat again?

4 Q. What is "speculation semi"?

5 A. "Speculation semi."

6 Q. Yes.

7 A. I don't know. I think you have
8 to ask who is the one, Gerard, yes, Gerard.

9 Q. Well, no, I'm asking you --

10 A. (Inaudible).

11 Q. Let me finish my question.

12 A. Yes.

13 Q. I'm asking you, as Keppel's
14 corporate representative, what is the
15 "speculation semi" referred to in this
16 e-mail.

17 A. I will guess that this
18 speculation semi is referring to one of the
19 first unit -- the first unit that we
20 eventually wanted to speculate.

21 (Reporter clarification.)

22 A. Sorry. The speculation -- My
23 guess is speculation semi is referring to
24 the first unit of the semi that has been
25 requested by Sete Brazil.

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2 A. Zwi is our agent and Bruno is
3 brought along by Zwi.

4 Q. Okay. So at this time Mr.
5 Skornicki was already functioning as an
6 agent for KOM with respect to Sete Brazil
7 projects; is that right, sir?

8 A. That's right.

9 Q. And at the bottom it says:
10 "Barusco went on to suggest that
11 the format for the proposal should include
12 the following points."

13 Do you see that, sir?

14 A. Yes.

15 Q. And is it Keppel's understanding
16 that Keppel and Sete were working together
17 at this point to submit Keppel's bid to
18 Sete for a total of 6 units?

19 A. Sorry, can you repeat your
20 question again?

21 (Requested portion of record
22 read.)

23 A. At this point, it is Sete's
24 request for us to submit a total price for
25 six units.

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2 a rig; right, sir?

3 A. That's right.

4 Q. All right.

5 MS. PAK: I'm introducing
6 another document.

7 (Previously marked
8 Exhibit 17 for identification shown to
9 the witness.)

10 MS. PAK: I have introduced a
11 document that was previously marked as
12 Plaintiffs' Exhibit 17. This is a
13 document Bates stamped KEPPEL00490690
14 to 768.

15 BY MS. PAK:

16 Q. Let me know when you see it.

17 A. Yes.

18 Q. This is the EPC contract between
19 URCA Drilling B.V. and Fernvale and is
20 dated as of December 16, 2011.

21 Do you see that, sir?

22 A. Yes.

23 Q. And URCA is the special purpose
24 entity that was formed by Sete; right, sir?

25 A. That's right.

1 UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 18-cv-01047 (PGG)

4 -----x

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10 Plaintiffs,

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12 KEPPEL OFFSHORE & MARINE LTD.,

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14 * * * CONFIDENTIAL * * *

15 VOLUME II

16 VIRTUAL ZOOM DEPOSITION

17 LEONG PENG TAN

18 July 16, 2021

19
20
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22 Reported By:

23 Erica Ruggieri, CSR, RPR

1 TAN - CONFIDENTIAL

2 Offshore & Marine first considered
3 making an early -- an equity
4 investment in one of the
5 semi-submersibles owned by Sete?

6 A. This is the time as far as
7 I can recollect. This is the time.

8 Q. Understood. And did Keppel
9 conduct any due diligence in Sete in
10 connection with its potential
11 investment in Sete's rigs?

12 A. For the investing in the
13 JV?

14 Q. Yes.

15 A. Yes. We had done some due
16 diligence. First of all, the
17 underlying reason why Keppel is
18 considering to invest is that Sete
19 Brasil has -- has spoken to us and
20 say that there's potentially they
21 want to spec view the first unit.
22 And to spec view the first unit they
23 will -- in this way they will
24 actually lock in the delivery date
25 meaning when they are actually

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2 chartering the vessel or the rig to
3 Petrobras, okay, the schedule is
4 more guaranteed and there's
5 potentially even early delivery
6 bonus.

7 Q. And did -- oh, I'm sorry,
8 go on.

9 A. And with that that is the
10 reason why Keppel have -- has
11 considered investing in the first
12 unit for Sete Brasil -- Sete Brasil,
13 sorry.

14 Q. And when you say that
15 someone -- that Sete Brasil had
16 spoken to Keppel, are you referring
17 to Mr. Barusco?

18 A. That's right.

19 Q. And can you describe the
20 kinds of due diligence that Keppel
21 conducted in connection with its
22 potential equity investment in
23 Sete's rig?

24 A. I'm personally not involved
25 in the due diligence but based on

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2 some of the document I see I
3 understand that they have gone
4 through and look at the equity
5 structure, okay. And with that --
6 and who are the potential JV partner
7 that wanted to invest in the first
8 unit, okay. And, of course, all
9 this is on the basis that
10 subsequently the unit will be
11 chartered to Petrobras.

12 Q. Do you know whether Keppel
13 received any -- received or reviewed
14 any investor presentations about
15 Sete or the rigs project in
16 connection with its due diligence on
17 Sete Brasil?

18 A. No. I can't recall that.

19 MS. PAK: Okay. I'm marking a
20 document. Okay, I have marked as
21 Plaintiff's Exhibit 91 an e-mail
22 chain that's been translated and
23 Bates stamped Keppel 00556336 to
24 340.

25 (Exhibit 91, E-mail from Tommy

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2 Do you see that, sir?

3 A. Yes.

4 Q. And it also shows that BNDS
5 was expected to provide the vast
6 majority of the senior debt for each
7 rig, right, sir?

8 A. Yes. That's what the slide
9 say.

10 Q. And if you turn to page
11 3333 and 34, which is Bates stamped
12 442 and 443, that presentation
13 provides a risk matrix for the Sete
14 investment.

15 Do you see that, sir?

16 A. Risk matrix?

17 Q. Risk matrix, yes.

18 A. Okay.

19 Q. Does this refresh your
20 recollection as to whether or not
21 KOM received investor presentations
22 in connection with its due diligence
23 of the Sete Brasil investment?

24 A. As I mention, I'm not
25 involved in the due diligence so I

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2 Q. Under financiers the first
3 line in the box states, "BNDES will
4 have an important and leading role
5 for financing rigs construction,
6 taking most of the long-term debt."

7 Do you see that, sir?

8 Do you see that, sir?

9 A. Yes.

10 Q. What was Keppel's
11 understanding in 2011 with respect
12 to BNDES's role in the rigs project
13 for Sete Brasil?

14 A. Our understanding is that
15 BNDES will be -- will be financing a
16 large portion of it and they will be
17 just like what has been said here is
18 for most of the long-term debt.

19 Q. Okay. And do you agree
20 having reviewed both now Plaintiff's
21 Exhibit 91, 92 and 93 that Keppel
22 received investor presentations in
23 connection with its due diligence of
24 the Sete Brasil project?

25 MR. BARBUR: Objection. You

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2 the shipyard."

3 Do you see that, sir?

4 A. Yes.

5 Q. At this point in time,
6 August 2011, is Mr. Y.Y. Chow
7 already the COO of KOM or is he
8 still the managing director at KOM?

9 A. He's the COO.

10 Q. And do you know whether or
11 not anyone from Keppel made any
12 presentation to the visitors that
13 visited BrasFELS in August 2011?

14 A. I don't know. But normally
15 a yard tour would typically have a
16 presentation. Normally a yard tour
17 that will be a presentation.

18 Q. Mr. Tan, do you have any
19 information as to the substance of
20 any presentation that was given to
21 EIG and the other visitors during
22 the August 2011 BrasFELS visit to
23 the shipyard.

24 A. No.

25 Q. Do you know who at Keppel

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2 attended the site visit that was
3 made by EIG to the BrasFELS shipyard
4 in August 2011?

5 A. I don't know.

6 Q. Did anyone from Keppel
7 authorize the visit?

8 A. Authorize the visit.

9 MR. BARBUR: By Keppel do you
10 mean as distinct from BrasFELS?

11 Q. Did anyone from any Keppel
12 entity authorize this visit?

13 A. Normally any yard visit,
14 the authorization would be by the
15 president of the yard.

16 Q. And at that time that would
17 be K.C. Kwok, correct?

18 A. That's right.

19 MS. PAK: I'm marking another
20 exhibit. I have marked as
21 Plaintiff's Exhibit 95 an e-mail
22 chain that's been translated. The
23 Bates number is Keppel 0001126 to
24 128.

25 (Exhibit 95, E-mail from Carla

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2 A. Yes, that's the e-mail sent
3 to them.

4 Q. And what was Keppel's
5 understanding as to why Sete was
6 raising additional funds in early
7 2012?

8 A. Understanding the 28 drill
9 rigs need financing.

10 MS. PAK: He said that the 28
11 drill rigs need financing.

12 Q. Is that correct, Tan --
13 Mr. Tan?

14 A. That's correct.

15 Q. And Sete was raising funds
16 in order to finance a second round
17 of bids for the 21 remaining drill
18 rig units, correct?

19 A. I don't know.

20 Q. You don't know. Okay.

21 A. Yeah.

22 Q. Were you aware that in
23 March 2012, the same month that this
24 e-mail was sent to senior executives
25 at KOM, that EIG made another visit

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2 Keppel 00012940 to 941, marked for
3 identification, as of this date.)

4 Q. Let me know when you see
5 it.

6 MR. BARBUR: I don't see a
7 translation. I see an e-mail in
8 Portuguese.

9 A. I see the exhibit but what
10 Peter say is in Portuguese.

11 Q. All right. So we will come
12 back to this. The document I have
13 is a translation. Let me see what
14 you see. All right, fine. We can
15 come back to it.

16 Mr. Tan, did KOM consider
17 Sete's ability to secure equity
18 financing in or around March 2012 to
19 be in Keppel's own interest?

20 A. Be Keppel what? Sorry.
21 The last part.

22 Q. Sure. Did KOM consider
23 Sete's ability to secure equity
24 financing in or around March 2012 to
25 be a benefit to Keppel's own

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2 interest?

3 A. I would say the ability --
4 since we had for this time the first
5 unit of the six semi then for Sete
6 Brasil to get financing so as to pay
7 us, okay. They will be the interest
8 party.

9 Q. So Keppel understood that
10 any funding that Sete received from
11 investors would help Sete pay for
12 the construction of additional rigs
13 by Keppel and the other shipyards,
14 correct?

15 A. The projects all require
16 financing.

17 Q. Thank you.

18 MS. PAK: I have marked as
19 Plaintiffs' Exhibit 101 an e-mail
20 dated August 7, 2012, with its
21 attachment. It is Bates stamped
22 Keppel 00453866 to 869.

23 (Exhibit 101, E-mail 8/7/2012,
24 with attachment, Bates Keppel
25 00453866 to 869, marked for

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2 question.

3 Q. Do you know what the
4 general sentiment of the lenders was
5 following the meeting?

6 A. I don't know.

7 Q. And you did not receive any
8 prep material that would provide you
9 that information, Mr. Tan?

10 A. I don't recall.

11 Q. Did KOM consider Sete's
12 ability to secure long-term
13 financing to be necessary in order
14 for Sete to complete the
15 construction of the 28 drilling rig
16 units?

17 A. All these drilling -- this
18 drilling rig program would need
19 financing to complete.

20 Q. Did KOM consider Sete's
21 ability to secure long-term
22 financing to be necessary to
23 complete the construction of its
24 rigs?

25 A. Yeah, the projects need

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2 financing to complete.

3 MS. PAK: I think he said,
4 yeah, the projects need financing
5 to complete.

6 Q. Is that right, Mr. Tan?

7 A. Yes.

8 Q. I just want to clean up the
9 record. Did KOM consider Sete's
10 ability to secure long-term
11 financing to be necessary to
12 complete the construction of its
13 rigs.

14 A. Let me say again for the
15 Sete project, the rigs project there
16 would be financing to complete.

17 Q. Okay. Thank you.

18 MR. BARBUR: We have been
19 going almost two hours. Can we
20 take a break at a convenient point?

21 MS. PAK: Now is fine with me.

22 MR. BARBUR: Okay. Let's take
23 ten minutes.

24 THE VIDEOGRAPHER: The time is
25 7:57. We are off the record.

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2 us."

3 Do you see that, sir?

4 A. Yes.

5 Q. Having read this e-mail now
6 were there executives at KOM who
7 expressed concern about Sete's
8 ability to secure long-term
9 financing with BNDES after
10 Mr. Barusco's plea agreements were
11 disclosed?

12 A. Yes, as to what the e-mail
13 say.

14 Q. And if you turn to the
15 first page of this e-mail Ms. Lee on
16 February 7, 2015, writes, "Dear
17 CEO/KCL and CEO/KOM, Valor and
18 Upstream have reported that the
19 signing of financing contracts,
20 which was scheduled to take place in
21 Brazil today (6 February) has been
22 suspended."

23 Do you see that, sir?

24 A. Yes.

25 Q. And it goes on to say, "On

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2 as --

3 A. The financing -- sorry.
4 The financing agreement has been
5 suspended.

6 Q. And the financing
7 agreements, the signing of the
8 financing agreements was suspended
9 due to the fact that Mr. Barusco's
10 plea agreements had been made public
11 the day before, right, sir?

12 A. Is it on the 6th? I
13 can't... I don't know the timeline
14 but of the 7 February that's what
15 has been reported.

16 Q. The signing of the
17 financing contracts were suspended
18 due to the fact that Mr. Barusco's
19 plea agreements had been made
20 public, right, sir?

21 A. Yes, regards to the
22 operation Lava Jato.

23 Q. Okay. That's not a full
24 sentence so I honestly just am not
25 sure what the answer is.

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2 A. That's right.

3 Q. Who asked you to join
4 Fernvale?

5 A. Mr. Y.Y. Chow.

6 Q. And who did you report to
7 at Fernvale?

8 A. I reported to the project
9 director.

10 Q. And who was the project
11 director?

12 A. Yan Naing Myint.

13 Q. You should just spell it
14 for her if you can, Mr. Tan.

15 A. I can't remember the
16 spelling. Let me check. I don't
17 know where they got.

18 Q. Is it Shan Ming Chow, is
19 that what you said?

20 A. No, no.

21 Q. Maybe we can correct that
22 during a break.

23 Did you play any role in
24 Keppel's submission of bids with
25 respect to the rigs project?

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2 history. Focus is needed and
3 believe this had not been easy with
4 the huge workload that we currently
5 have. Believe it is (lucky)" in
6 quotation "for us this specification
7 had not deviate much from the
8 previous."

9 Do you see that, sir?

10 A. Yes.

11 Q. Why is the word "lucky" in
12 parentheses?

13 A. I don't recall.

14 Q. And you considered Keppel's
15 contract with Sete to be the biggest
16 contract that Keppel had ever
17 entered into in its history,
18 correct?

19 A. Yes. Actually I said that
20 because at that point in time we
21 think there is a single contract
22 with six-unit from that perspective,
23 yes.

24 Q. And yesterday I believe you
25 testified that you didn't care

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2 contracts that Fernvale entered into
3 with Mr. Skornicki's companies at or
4 around the time they were executed?

5 A. I can't recall that.

6 Q. Did you have any specific
7 role in 2012 with respect to the
8 fees that were due to Mr. Skornicki
9 pursuant to Fernvale's contracts
10 with Deepsea and Eagle?

11 A. Yes. I'm part of the
12 approving -- part of the approving
13 process.

14 Q. You said you were part of
15 the approving process, right?

16 A. Yes, yes.

17 Q. The individual that you
18 named as your boss at Fernvale, was
19 he also part of the approving
20 process?

21 A. Yes.

22 Q. Who else was part of the
23 approving process for the fees that
24 were paid to Mr. Skornicki pursuant
25 to Fernvale's contracts with Eagle

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2 and Deepsea?

3 A. There would be others from
4 finance and then there will also be
5 the CEO.

6 Q. CEO of which Keppel entity?

7 A. KOM.

8 Q. Did you serve as an
9 intermediary between Fernvale and
10 Mr. Skornicki with respect to
11 discussions or any questions
12 Mr. Skornicki had about his
13 commission payments due from
14 Fernvale?

15 A. Can you repeat that again?

16 Q. I said did you serve as an
17 intermediary between Fernvale and
18 Mr. Skornicki with respect to any
19 discussions or questions
20 Mr. Skornicki had about commission
21 payments due to him from Fernvale?

22 MR. BARBUR: Object to the
23 term "intermediary" as ambiguous.

24 A. Yeah. What do you mean by
25 intermediary?

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2 Keppel received, correct?

3 A. That's right.

4 Q. And the funds that Keppel
5 used to pay Mr. Skornicki were
6 calculated on and came directly from
7 SeteBrasil, correct?

8 A. Yes.

9 Q. Why then did you also need
10 to provide him with the description
11 that he should use for the invoices
12 that he sent to Keppel?

13 A. Because the payment from
14 SeteBrasil, milestone payment.
15 Okay. Meaning there is certain
16 event that we have achieved or occur
17 during the project, that's why there
18 is the need of a description. Okay.

19 So take for example there is a
20 milestone payment or strike steel.
21 Okay. So I also had to let Mr. Zwi
22 know that this, I'm paying him -- we
23 are -- the company is paying him for
24 that particular milestone payment.
25 So you need a description for that.

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2 Q. Did Mr. Tong authorize
3 every payment that was made
4 Mr. Skornicki pursuant to Fernvale's
5 contract with Eagle or Deepsea Oil?

6 A. I believe so.

7 Q. And did you have an
8 understanding at this time as to why
9 Mr. Tong had instructed that all
10 agent payments should be endorsed by
11 him?

12 A. This instruction is
13 actually passed down by finance. As
14 to why, I don't know.

15 Q. And Mr. Zwi writes back, "I
16 am not jumping on you but you must
17 understand I also have commitments
18 and my people after eight months for
19 the first unit and more than four
20 months for the remaining, nothing
21 happen, just promises and asking
22 help. They do not believe that I
23 did not receive and it is looking it
24 is with me and I do not want
25 transfer."